

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

SEAN SHALLOW,

Plaintiff,

v.

LIDL US, LLC et al.,

Defendant.

Case No. _____

NOTICE OF REMOVAL

Defendant Lidl US, LLC, through counsel, files this notice of its removal of this action in its entirety to this Court, pursuant to 28 U.S.C. §§ 1441 and 1446, and states as follows:

1. On or about February 17, 2021, Plaintiff Sean Shallow, proceeding pro se, filed a complaint in the Circuit Court of the City of Virginia Beach naming Lidl as the sole defendant. The original action is identified as Case No. CL21000697-00.
2. On or about March 8, 2021, Lidl was served with the complaint.
3. 28 U.S.C. § 1441(a) provides that “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants.”
4. This Court has “original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331.
5. Plaintiff’s pro se complaint asserts at least two federal claims, including one under “Title II Civil Rights Act (Public Accommodation)” and one for “Discrimination Perceived Disability Title III ADA.” (Compl. at 2, 3 (capitalization omitted).) The complaint also asserts claims under 18 U.S.C. §§ 241, 1001, and 1512, which are criminal statutes.

6. The Court has supplemental jurisdiction, pursuant to 28 U.S.C. § 1337, over Plaintiff's state-law claims, which include claims for slander and intentional infliction of emotional distress, and a claim under the Virginia Human Rights Act. (Compl. at 2–4.) The complaint also asserts claims under Va. Code Ann. § 18.2-461, which is a criminal statute, and the Virginia Constitution. (*Id.*) These claims rely on the same factual allegations as the federal claims and thus “form part of the same case or controversy under Article III.” 28 U.S.C. § 1337(a).

7. 28 U.S.C. § 1441(a) provides that removal is proper “to the district court of the United States for the district and division embracing the place where such action is pending. 28 U.S.C. § 1441(a).

8. This Court is the United States District Court for the district and division in which the above-referenced state court action is pending, and therefore is the appropriate venue for the removal of this action. *See id.*

9. Section 1446 outlines the procedural requirements applicable to the removal of civil actions. A removing defendant must (1) file a “copy of all process, pleadings, and orders served upon such defendant . . . in such action” with the notice of removal within thirty (30) days after receipt of the initial pleading or the service of the summons upon the defendant and (2) provide written notice of the filing of the notice of removal to all adverse parties and file a copy of the notice with the clerk of the State Court. 28 U.S.C. § 1446(a), (b)(1), (d).

10. In accordance with § 1446(a), attached to this notice as **Exhibit A** is a copy of the state court complaint.

11. This notice has been timely filed within 30 days after Lidl was served with and became aware of the complaint.

12. As required by 28 U.S.C. § 1446(d), Defendant has provided written notice of the filing of this Notice of Removal to Plaintiff, and has filed a copy with the Virginia Beach City Circuit Court (copies of which are attached hereto as **Exhibit B** and **Exhibit C**, respectively).

This the 24th day of March 2021.

Respectfully submitted,

By: /s/ David I. Klass
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CERTIFICATE OF SERVICE

I hereby certify that on this date, the foregoing notice of removal was electronically filed with the Clerk of Court using the CM/ECF system. I further certify that a copy of the foregoing document was also served upon Plaintiff via First Class Mail, addressed as follows:

Sean Shallow
P.O. Box 61884
Virginia Beach, VA 23466

This the 24th day of March 2021.

/s/ David I. Klass _____

David I. Klass
Counsel for Defendant